IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 12 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAJAN DEVANAND

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 12 of 2002

MR AM PAREKH for Petitioners No. 1-2

MR BD DESAI LD.PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 17/01/2002

ORAL JUDGEMENT

#. The petitioners - original accused persons have preferred this Revision Application Under Section-397 of the Criminal Procedure Code, 1973, challenging the judgment and order dated 3.1.2002 recorded by the learned

Sessions Judge, Junagadh in Criminal Revision Application No.114/2001, allowing the said Revision Application and granting the police remand against the present petitioners for 3 days in connection with the offence registered as C.R.No.196/2001 with Junagadh "A" Division Police Station, involving the offence punishable under Sections 406, 420 and 114 of the I.P.C.

#. It appears that the learned Magistrate had granted police remand at the initial stage for 2 days and second application for further police remand was rejected by him. Therefore, the State preferred Criminal Revision Application before the Sessions Judge at Junagadh by filing Criminal Revision Application No.114/2001. The said Revision Application was allowed and the police remand as prayed was granted by the learned Sessions Judge vide his order referred to hereinabove.

#. Feeling aggrieved by the said judgment and order of the learned Sessions Judge, the petitioners original accused persons have preferred this Revision Application before this Court. It has been mainly contended here that looking to the date of the offence, looking to the nature of the offence, date of the FIR, first arrest and looking to the facts and circumstances of the case the learned Sessions Judge has committed error in eye of law in granting police remand against the present petitioners. Therefore, the judgement and order erroneous and illegal and deserve to be set aside. Therefore, it is prayed that this Revision Application be allowed and order of learned Sessions Judge be quashed and set aside.

#. Rule was issued and implementation and operation of the order of the learned Sessions Judge was order to be suspended. Learned APP - Mr.B.D.Desai has appeared in response to the rule served. I have heard the learned advocates for the parties and have perused the papers.

#. The facts emerging from the record go to show as follows :-

13.7.2001 - The offence said to have been committed.
1.8.2001 - FIR lodged.
20.11.2001 - The petitioners were arrested.
21.11.2001 - They were produced before the learned JMFC. On the same day learned JMFC granted police remand for 2 days.
23.11.2001 - Further remand for 5 days prayed for and rejected.
28.12.2001 - The State preferred Revision Application

No.114/2001. Order passed by the learned Sessions Judge granting police remand (3.1.2002)

#. In view of the aforesaid facts emerging from the record of the case, it is quite clear that sufficient time has elapsed, subsequent to the date of the offence, date of the FIR and date of the arrest of the petitioners. Even the petitioners have already been enlarged on bail. Having regard to the facts and circumstances of the case emerging from the material made available on the record I am of the opinion that no fruitful result will be derived by granting further police remand of the present petitioners. Even looking to the facts that the petitioners were arrested on 28.11.2001 more than 45 days have already gone and considering the decisions recorded in the case of Central Bureau of Investigation Vs. Anupam J. Kulkarni, as reported in AIR 1992 supreme Court 1768, it may be technically permissible to extend the police remand.

#. In above view of the matter the judgment and order of the learned Sessions Judge appear to be erroneous on the face of it and, therefore, the Revision Application is required to be allowed.

#. For the foregoing reasons this Revision Application is allowed. The judgment and order of the learned Sessions Judge impugned in this Revision Application are ordered to be set aside. Rule is made absolute. D.S. is permitted.

(D. P. BUCH, J.)

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